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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/066,468      | 01/31/2002  | Neil Tilbor          | 204-6 (US)          | 3502             |

24336 7590 07/31/2003

KEUSEY, TUTUNJIAN & BITETTO, P.C.  
14 VANDERVENTER AVENUE, SUITE 128  
PORT WASHINGTON, NY 11050

EXAMINER

FRANCIS, FAYE

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3712

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/066,468

Applicant(s)

TILBOR ET AL.

Examiner

Faye Francis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Objections***

1. Claim 1 is objected to because of the following informalities: in line 2 from the bottom, "actions" should be replaced with --action--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 9 are indefinite since all that the applicant considers to be encompassed by the phrase "a body/chassis" cannot be determined. For example does the phrase require body or chassis, body and chassis or some other combination? This terminology is repeated throughout the claims.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-5, 7, 9-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tilbor et al [5,429,543], hereinafter Tilbor.

Tilbor discloses a radio control toy vehicle 10 comprising: a chassis 12, a rear pair of gyroscopic action wheels 25-26, at least one front gyroscopic action wheel and means for selectively driving the gyroscopic action wheels at speeds to create a gyro effect at each of the wheels, the gyro effect generating centrifugal forces at each wheel, wherein the centrifugal forces are transformed in torque reactions on the entire toy when at least one of the gyroscopic action wheels is instantaneously reversed through the driving means [col 1 lines 32-68] as recited in claims 1 and 9. Additionally, Tilbor discloses, a first reversible motor 31 and gearing 30 for driving a first pair of side wheels defined by one of the rear pair of wheels and one of the front pair disposed on one side of the chassis [wheels 23 and 25], a second reversible motor 41 and gearing for driving a second pair of side wheels defined by the other of the rear pair of wheels and the other of the front pair of wheels disposed on the other side of the chassis [wheels 26 and 24] as recited in claims 3 and 9-10.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilbor in view of George et al, hereinafter George.

Tilbor discloses most of the elements of these claims as stated above.

Tilbor does not disclose each of the wheels have a diameter, and the diameters are equal to each other as recited in claims 6 and 11.

George is cited to show desirability, in the same art of gyroscopic toys, to have a radio control toy vehicle with wheels having equal diameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Tilbor with the missing elements as taught by George in order to make the toy more fun to play with.

8. Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilbor in view of Tilbor et al [6,024,627], hereinafter Tilbor 627.

Tilbor discloses most of the elements of these claims as stated above.

Tilbor does not disclose each of the wheels have an outer circumferential surface having varying coefficients of friction based on the point of contact with a running surface on which the toy is being operated as recited in claims 8 and 13.

Tilbor 627 is cited to show desirability, in the same art of gyroscopic toys, to have wheels with varying coefficients of friction [col 5 lines 21-45 and col 8 lines 5-15]. It would have been obvious to provide the device of Tilbor with the missing elements as taught by Tilbor 627 in order to allow the toy to slip on carpets.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Allowable Subject Matter***

10. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

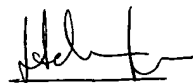
***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 703-306-5941. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

FF  
July 25, 2003

  
Faye Francis  
Examiner